

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NATIONAL RAILROAD PASSENGER
CORPORATION,

14-CV-7510 (JSR)

Plaintiff,

- vs. -

**REPLY DECLARATION OF
BRUCE R. KALINER IN
FURTHER SUPPORT OF
INSURERS' MOTION FOR
PARTIAL SUMMARY
JUDGMENT**

**(REPLACEMENT OF
BENCHWALLS/TRACK BEDS)**

ARCH SPECIALTY INSURANCE COMPANY;
ASPEN SPECIALTY INSURANCE COMPANY;
COMMONWEALTH INSURANCE COMPANY,
FEDERAL INSURANCE COMPANY;
LEXINGTON INSURANCE COMPANY;
LIBERTY MUTUAL FIRE INSURANCE COMPANY;
CERTAIN UNDERWRITERS AT LLOYD'S OF
LONDON and CERTAIN LONDON MARKET
INSURANCE COMPANIES subscribing to Policy Nos.
507/N11NA0820, 507/N11NA08241, 507/N11NA08242,
507/N11NA08244, 507/N11NA08244, 507/N11NA08245
and GEP2944; MAIDEN SPECIALTY INSURANCE
COMPANY; MAXUM INDEMNITY COMPANY;
NAVIGATORS INSURANCE COMPANY;
PARTNER REINSURANCE EUROPE plc;
RSUI INDEMNITY COMPANY;
STEADFAST INSURANCE COMPANY;
TORUS SPECIALTY INSURANCE COMPANY; and
WESTPORT INSURANCE CORPORATION,

Defendants.

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BRUCE R. KALINER, an attorney admitted to practice in the Southern District of New York, declares the following under penalty of perjury:

1. I am a member of the law firm Mound Cotton Wollan & Greengrass, counsel for Defendants Commonwealth Insurance Company, Lexington Insurance Company, Maiden

FILED UNDER SEAL PER NOVEMBER 29, 2014 PROTECTIVE ORDER

Specialty Insurance Company, Steadfast Insurance Company, and International Insurance Company of Hannover SE, several of the Defendants in this action (collectively, along with all other Defendants, “Insurers”). I am familiar with the proceedings in this matter and submit this reply declaration in response to the opposition of Plaintiff, National Railroad Passenger Corporation (“Amtrak”), and in further support of Insurers’ Motion for Partial Summary Judgment denying Plaintiff’s claim that its benchwalls and track beds, which were allegedly damaged by Sandy floodwater, need to be replaced in their entirety, *i.e.*, from “portal to portal.”

2. Pursuant to paragraph 9 of the Protective Order, which was so-ordered by the Court on November 29, 2014, documents that have been designated as “Confidential Discovery Materials” by one of the parties to this lawsuit are to be filed under seal with the court (ECF 54).

3. The documents attached to this Declaration have been designated by Amtrak as “Confidential” and are therefore being filed under seal with the Court at this time.

4. Attached as Exhibit 25 is a true and correct copy of relevant portions of the January 12, 2015 deposition transcript of Randolph H. Goodman, Amtrak’s Rule 30(b)(6) corporate representative on topics relating to Amtrak’s claimed damages.

5. Attached as Exhibit 26 is a true and correct copy of relevant portions of the January 14, 2015 deposition transcript of Glenn Sullivan, Amtrak’s Rule 30(b)(6) corporate representative on topics relating to engineering issues.

6. Attached as Exhibit 27 is a true and correct copy of relevant portions of the January 8, 2015 deposition transcript of Richard Bernaski, an Amtrak employee.

7. Attached as Exhibit 28 is a true and correct copy of relevant portions of the February 9, 2015 deposition transcript of Michael Thomas, Amtrak’s expert.

Dated: New York, New York
April 6, 2015



BRUCE R. KALINER